

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Improving Communication Services for Native)	
Native Nations by Promoting Greater Utilization)	WT Docket No. 11-40
of Spectrum over Tribal Lands)	
)	CG Docket No. 11-41
)	

**COMMENTS OF THE ASSOCIATION OF PUBLIC TELEVISION STATIONS, THE
CORPORATION FOR PUBLIC BROADCASTING, AND THE PUBLIC
BROADCASTING SERVICE**

The Association of Public Television Stations,¹ the Corporation for Public Broadcasting,² and the Public Broadcasting Service³ (collectively referred to herein as “Public Television”) welcome this opportunity to comment on the Federal Communication Commission’s (“Commission”) *Notice of Proposed Rulemaking* regarding the improvement of communications services for Native Nations by promoting greater utilization of spectrum over tribal lands (“NPRM”).⁴

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s 364 CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

² CPB is a private, nonprofit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming. *See 47 U.S.C. § 390 et seq.*

³ PBS, with its nearly 360 member stations, offers all Americans — from every walk of life — the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches 117 million people through television and 20 million people online, inviting them to experience the worlds of science, history, nature, and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

⁴ *Improving Communications Services for Native Nations by Promoting Greater Utilization of Spectrum over Tribal Lands*, WT Docket No. 11-40 (March 3, 2011).

INTRODUCTION

The fundamental purpose of public service media is to provide programs and services that inform, enlighten, and enrich the public. Public Television has the particular responsibility to encourage the development of programming that involves creative risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities.⁵ As part of the commitment to Universal Service⁶, public broadcasting provides critical services to remote and rural areas, many of which are on tribal lands. Public television stations provide broadcast programming, web, and community outreach services to the Native Nations communities throughout our country. The programming focuses on public affairs, science, history, nature, and civic engagement of these communities, as well as timely news and critical public alert and warning information.

Undoubtedly, the expansion of broadband and other communication services in Native Nations would expand access to educational and informative programming to members of any tribe within its reach. Broadband creates the possibility to be involved in the greater community-at-large and the demand of such services in rural areas was among the highlights of the 2009 National Broadband Plan Workshop - Deployment Unserved/Underserved⁷ held by the

⁵ Corporation for Public Broadcasters: Goals and Objectives, <http://www.cpb.org/aboutcpb/goals/goalsandobjectives/> (last visited June, 7, 2011).

⁶ http://transition.fcc.gov/wcb/tapd/universal_service.

⁷ http://www.broadband.gov/ws_deployment_unserved.html.

Different panelists and members were involved. In particular, Mr. Mark Cooper, Director of Research Consumer Federation of America, commented “Those who are disconnected are disadvantaged and disenfranchised, unable to participate fully in the economic, social, civic, and political life of 21st century America. Households with broadband and without broadband are exactly as likely to participate in physical space, in information gathering, political activity, social gathering, writing letters to the editor, petitioning their friends. But households that have broadband are four times as likely to engage in those activities in cyberspace as people who don't. Simply put, those who do not have broadband are cutoff from the growing digital public sphere, denied the personal productivity tools and economic opportunities of cyberspace, their life chances and well-being are constrained.”

A copy of the transcript is available on the Broadband.gov website at: http://www.broadband.gov/docs/ws_04_deploy_un_transcript.pdf.

Commission. However, in implementing its goal to develop universal broadband access, the Commission should not overlook the ongoing universal access to educational and informational programming provided by Public Television to over ninety-nine percent of the population in our country.

I. BACKGROUND

Many public television stations provide valuable communication and information services to tribal lands. For example, KUED in Salt Lake City, Utah, in conjunction with PBS's *We Shall Remain*, developed a series establishing Native history as an essential part of American history. KUED embarked on a comprehensive project designed to give voice to Utah's American Indian population, increase understanding and awareness among the general population regarding Utah's tribes, and ensure long-term access to *We Shall Remain* programs and related educational resources through Utah's schools and libraries. Working with the Utah Office of Indian Affairs and the University of Utah, KUED produced a series of local documentaries, and established a robust website to house related resources and additional educational content examining the five principle Utah American Indian tribal cultures: Paiutes, Goshutes, Northwestern Shosone, Ute and Navajo.

KUED organized extensive outreach to the community, resulting in a coalition of community partners integrating the content into events as diverse as a musical oratorio, a history conference and a major art exhibit. Perhaps the most important part of this multi-faceted project is an extensive multimedia curriculum guide distributed to every school in the state at the fourth grade, seventh grade and high school levels. The KUED series and surrounding activities have significantly changed the way American Indian history and culture is understood in Utah. Along

with countless expressions of gratitude from teachers, public officials, viewers and tribal members, the outgrowth of this project (including secondary uses of the content in state employee training programs) has been an affirmation of the need for accurate information about American Indian history.

Similarly, South Dakota Public Broadcasting (“SDPB”) provides critical communication services to tribal lands. For example, in South Dakota, a state with a small and mostly rural population, there are few central resources for civic engagement and awareness. Especially isolated are residents of the state's nine reservation/tribal areas. In response, SDPB partnered with the state Legislative Research Council, Bar Association, Newspaper Association and AARP to develop *Tune Into Democracy*. SDPB provided gavel-to-gavel coverage of legislative sessions, candidate debates for state and local offices, and election information on radio, TV and in a comprehensive one-stop web site. The need for this information was clearly high, with traffic on the legislative and election Web pages quadrupling during the project.

Equally noteworthy, last year in San Bernardino, CA, KVCR television launched the nation's first 24-hour Native American television channel in conjunction with San Manuel Band of Mission Indians.⁸ The Channel is a groundbreaking media initiative emphasizing the factual history, culture and current events of Native Americans and Alaskan Natives.⁹ In the midwest, Wisconsin Public Television has created *Wisconsin Stories*, an information portal containing resources to experience the Native American oral tradition of the Ojibwe Tribe; its contents

⁸ San Manuel Band of Mission Indians Press Release, <http://kvcr.org/~media/Files/SBCCD/KVCR/PDF/KVCRNATIVECHANNELRELEASE.ashx> (last visited June 17, 2011).

⁹ Id.

could be streamed online.¹⁰ In a similar fashion, Idaho Public Television serves six Native Tribal areas with digital television services within its coverage areas including KISU-DT, Pocatello (Fort Hall Indian Reservation), Lewiston (K51HY-D) Lapwai, Sandpoint (K16EN) Kootnei Indian Reservation, Juliaetta (K43GE), Kamiah (K11KO), and KIPT-DT Twin Falls Duck Valley Indian Reservation. In addition, Idaho Public Television has several programming and content creation initiatives in progress including: employing a native American, full-time journalist to report on environmental and land resource issues as part of the Local Journalism Center Project partially funded through the Corporation for Public Broadcasting; working with two Native American independent producers on separate video projects; broadcasting 12 hours each weekday of educational children's programming to tribal areas; recently broadcast statewide the INDEPENDENT LENS program "Power Paths," which examined green energy programs on Native American lands; and has comprised numerous Native Tribe materials such as the Lewis and Clark expedition, and *The Journey of Sacagawea* in its "among the tribes" programming section.¹¹

At a national level, the Native American Public Telecommunications ("NAPT") exists to serve Native producers and Indian country in partnership with public television and radio. NAPT works with Native producers to develop, produce, and distribute educational telecommunications programs for all media including public television and public radio.¹² NAPT supports training to increase the number of American Indians and Alaska Natives producing quality public

¹⁰ Wisconsin Public Television, *Wisconsin Stories*, <http://www.wisconsinstories.org/archives/ojibwehistory/index.cfm?action=ojobwehistory> (last visited June 17, 2011).

¹¹ Information provided by Peter Morrill, General Manager for Idaho Public Television.

¹² Native American Public Telecommunications, http://www.nativetelecom.org/about_us (last visited June 17, 2011).

broadcasting programs, which includes advocacy efforts promoting increased control and use of information technologies and the policies to support this control by American Indians and Alaska Natives.¹³

Public broadcasting is made up of a diverse network of independent stations, serving defined local areas and answerable to their community's unique needs, including 39 stations such as the ones described above, that are located on and primarily serve Native communities.¹⁴ The services provided by these broadcasters are essential to Native Nations. For instance, public radio and television provide a lifeline to Native communities that cannot be replaced; they reach vast stretches of tribal lands that still hold pockets of villages and isolated homes.¹⁵ When trouble comes in the form of flash floods, wildfire, tornadoes or other matters of public safety, Native radio and television are the first and often only information sources.¹⁶ And when there is occasion for celebration, Native radio links families, clans, and communities with news of births, marriages, school events, and sports victories.¹⁷

II. DEFINING THE GEOGRAPHIC AREA FOR WHICH TRIBAL ACCESS TO SPECTRUM OPPORTUNITIES MAY BE AVAILABLE

Public Television offers these specific comments in regards to the proposed Tribal priority plan pertaining to geographic area boundaries in the NPRM. The Commission should include unserved or underserved near-reservation areas beyond the boundaries of Tribal lands. In

¹³ Id.

¹⁴ Loris Ann Taylor, *Public media op-ed by Loris Taylor, President of Native Public Media*, <http://www.nativepublicmedia.org/In-The-News/public-media-op-ed-by-loris-taylor-president-of-native-public-media.php> (last visited June 13, 2011).

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

order to do so, Public Television suggests a two step procedure to precisely determine what areas beyond such boundaries warrant spectrum allocation.

The first step should be the use of U.S. Census block maps as suggested by the Commission.¹⁸ The block maps provide an effective visual of the demographic region; however, a proposal to include zones beyond the boundaries of Tribal lands should be tailored to include as many Tribal members residing in such outer regions as possible and such specific information is not accurately displayed by the block map.

Therefore, the Commission could also utilize official Census poll results in conjunction with Census block maps to determine which expanded areas warrant additional spectrum coverage. However, it should be noted that U.S. Census data is updated every ten years thus an area which may show up in the last Census report as having enough residents to warrant being included in a Tribal priority plan expansion may have incurred a significant population shift due to economic, natural, or unforeseeable factors. Furthermore, in utilizing such data, the Commission should be aware of the specific difficulties and challenges the Census Bureau must overcome while reaching Tribal governments and its inhabitants.¹⁹

As a result, in order to aid the Commission's difficult task of administering spectrum in its existing licensing system and deciding what areas outside a tribal reservation to expand to, Public Television suggests a secondary step of establishing a task force with Tribal officials. It is

¹⁸ "If such near-reservation areas were included, we propose that any such areas would be comprised of U.S. Census block areas. Using Census block boundaries will provide more certainty for all parties and will allow the Commission to more easily administer such licenses in its existing licensing systems." NPRM at ¶ 33.

¹⁹ The American Indian and Alaska Native populations presented a unique challenge, as demonstrated by the high undercounts in 1990 – as high as 12 percent among American Indians living on reservations. The Census Bureau, with advice from the American Indian and Alaska Native Advisory Committee, used a variety of tools to reach and persuade American Indians and Alaska Natives about the importance of being counted in the census. U.S. Census Bureau – American Indian | Alaska Native Consultations Report, <http://factfinder.census.gov/home/aian/Appendix-B.pdf>.

likely that Tribe leaders have the most recent information as to population trends and updated tribal registration; therefore, the Commission should consult with Native Nation advisors and obtain their valuable input as to which outer areas to be included. This active cooperation task force would develop plans or issue reports that would maximize allocated resources providing spectrum services available to as many Tribal members that reside in areas just outside Tribal reservations as possible. Additionally, such efforts may increase and enhance joint relations between Native Nations entities and the federal government, a shared goal by the Commission. These two steps are intended to minimize non-usage of spectrum, provide a procedure that is not unduly burdensome for either party, and create a strong liaison coalition.

III. CURRENT SPECTRUM USAGE

As the Commission seeks comment in ways to maximize spectrum usage to improve communication services in Native Nations, it is critical the Commission does not divest current spectrum being utilized by Public Television and radio interrupting current services already allocated to Tribes and rural communities. As to this concept, Public Television would like to raise awareness of an ongoing situation with respect to TV and radio translators in Utah.

As the Commission has recognized, “[t]elelevision translators have provided a valuable service in delivering television programming to locations where the signals of TV broadcast stations cannot be directly received due to distance or terrain obstructions.”²⁰ Utah possesses a complex and unique geographical make up; rural communities and Native Tribes have relied on translator service for decades and Utah currently operates and maintains 688 translators which

²⁰ *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations*, 18 FCC Rcd 18365, 18369 ¶ 9 (2003).

make up thirty-five percent of all translators in the country.²¹ Both National Public Radio²² (“NPR”) and Public Broadcasting Service (“PBS”) signals are broadcast through these translators reaching secluded communities including Paiute and Navajo reservations in Utah and Arizona.²³ Many rural and Native Tribe communities pose the risk of being disconnected if spectrum is reallocated without first reaching a solution to continue service.²⁴ If this occurs, a vital source of information in and out of Native Nations would be lost.²⁵

As the final transition of the analog-to-digital mandate goes underway, the Commission is faced with important tasks such as digital spectrum auctions, wireless license along with channel reallocations, and decisions as to the spectrum that will be relinquished. Nevertheless, it is critical that as the Commission develops plans to answer these needs and improve communication services, the current infrastructure set in place providing PBS educational services to children and vital NPR radio broadcast to rural and Native Tribe communities is left intact. A deployment of extended broadband coverage which interrupts or hinders the current TV and radio broadcasting systems in these communities would simply alleviate one problem while creating another. Public Television suggests that the Commission performs a thorough report of

²¹ Telephone interview with Kent Parsons, State of Utah TV Translator Coordinator (June 6, 2011).

²² Id. NPR signal is sent through their backbone system as one of the programs on channel nine, KUEN, (Utah Educational Network) which is licensed to The Utah State Board of Regents and is operated by the University of Utah.

²³ Id. Some of the covered areas include Lechee, AZ, which lies in the northwest corner of the Navajo Indian Reservation.

²⁴ Id. The state of Utah and the University of Utah have spent millions of dollars maintaining and servicing these facilities that served these communities.

²⁵ Loris Ann Taylor, *Public media op-ed by Loris Taylor, President of Native Public Media*, <http://www.nativepublicmedia.org/In-The-News/public-media-op-ed-by-loris-taylor-president-of-native-public-media.php> (last visited June 13, 2011).

current services allocated to Native Nations and work to maintain or successfully transition such indispensable TV translator systems.

CONCLUSION

Unlike other areas of the country, Native Nation territories are often unknown by the majority population. Tribal grounds possess a complex number of obstacles which, in the past, prevented transportation and proper coverage planning to be developed. Thus, in order to improve spectrum usage across the country, there must be a great amount of cooperation between the Commission, spectrum licensees, and Tribal officials. Accordingly, Public Television will continue to diligently work with all related entities in pursuance of our shared goal of universal service and our mission to educate and inform the entire American public and all of its local communities.

Respectfully submitted,

/s/

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